

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING**

and

Z.C. ORDER NO. 04-31

Z.C. Case No. 04-31

(Text Amendments to Definitions Section, 11 DCMR § 199)

July 11, 2005

The Zoning Commission for the District of Columbia (the "Commission"), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended, D.C. Official Code § 6-641.01); having held a public hearing as required by § 3 of the Act (D.C. Official Code § 6-641.03), and having referred the proposed amendments to the National Capital Planning Commission for a 30-day period of review pursuant to § 492 of the District of Columbia Charter, hereby gives notice of the adoption of amendments to § 199 (Definitions) of the Zoning Regulations (Title 11 DCMR). The amendments will define the terms "clear height" and "clear or low-emissivity glass." The Commission took final action to adopt the amendments at a public meeting held on July 11, 2005.

This final rulemaking is effective upon publication in the *D.C. Register*.

Existing Regulations

The existing regulations do not provide definitions of either term. However "clear height" is a term that has been included in the text of pending map amendments that would establish the Takoma Neighborhood Commercial Overlay District (Z.C. Case No. 04-16) and the Mount Vernon Triangle sub-area of the Downtown Development District (Z.C. Case No. 04-08). In addition to these proposed amendments, "Clear or low-emissivity glass" has also been used in the following overlays: Capital Gateway (§ 1604.6) Downtown Development District (§ 1701.5(a)), Southeast Federal Center (§§ 1803.3(e) & 1804.3(e)), and Uptown Arts-Mixed Use (§ 1903.4(a)). Without these amendments, "clear height" or "clear or low-emissivity glass" would need to be defined in each section in which the term was used. This would be an unnecessary encumbrance to the Zoning Regulations.

Description of Text Amendment

Given the multiple instances in which these terms now appear or are proposed to appear in the Zoning Regulations, the Office of Planning initiated this rulemaking to define these terms once, rather than defining them repeatedly within individual overlay or sub-district regulations. These specifications reflect new industry standards for quality retail space and other space not intended

for living-units. The clear height requirement, as defined, is intended to be flexible enough to change with interior and market needs over time, and to stimulate pedestrian activity.

Relationship to the Comprehensive Plan

The amendments are not inconsistent with the goals of the Comprehensive Plan and are consistent with the following sections of the Comprehensive Plan: § 708.2, which advocates designing buildings to complement or enhance the physical character of the District; §709.2(i) which encourages design features such as storefront windows to promote pedestrian activity along streets; and §713.2, which emphasizes the design of functionally active commercial areas throughout the District, and the orientation of major new development toward the street in order to emphasize the public space as a setting for active use.

Public Hearing and Proposed Action

The Commission held a public hearing on March 31, 2005 and took proposed action immediately thereafter to approve the advertised text. There was only one comment at the hearing, a strongly supportive statement from the Retail Committee of the District of Columbia Building Industry Association. A Notice of Proposed Rulemaking was published in the *D.C. Register* on May 27, 2005 at 52 DCR 5092, for a 30-day notice and comment period. No comments were received

The proposed rulemaking was also referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the District of Columbia Charter. NCPC, by report dated April 28, 2005, found that the proposed text amendment would not adversely affect the federal interests nor be inconsistent with the Federal Elements of the Comprehensive Plan.

The Office of the Attorney General determined that this rulemaking meets its standards of legal sufficiency.

Final Action

The Commission took final action to adopt the rulemaking at its regularly scheduled public meeting on July 11, 2005. No substantive changes were made to the advertised prepared text.

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, consistent with the purpose of the Zoning Regulations and Zoning Act, and not inconsistent with the Comprehensive Plan for the National Capital.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the amendment of 11 DCMR § 199.1, to insert the following new definitions, in proper alphabetical order.

1. **Clear Height, Floor to Ceiling** – floor to ceiling height is a vertical distance measured from the finished floor to the finished ceiling that is unobstructed by any of the following:

- (a) Elements of the building structure, other than columns and walls;
- (b) Components of mechanical, plumbing, or fire suppression systems;
or
- (c) Components of electrical systems, except lighting fixtures.

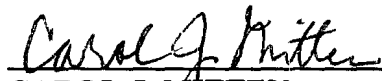
If the ceiling is not finished, the distance shall be measured to the lowest point of any of the structural elements of systems referenced in (a), (b) or (c) above.

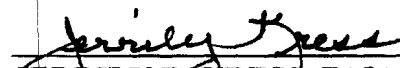
2. **Glass, Clear and/or Low-Emissivity** – glass with a visible light transmission rating of at least seventy percent (70%) and an outdoor visible light reflectance rating of no greater than seventeen percent (17%).

Vote of the Zoning Commission taken at its public meeting on March 31, 2005, to **APPROVE** the proposed rulemaking: 5-0-0 (Carol J. Mitten, Kevin L. Hildebrand, Anthony J. Hood, Gregory N. Jeffries, and John G. Parsons).

This order was **ADOPTED** by the Zoning Commission at its public meeting on July 11, 2005, by a vote of **5-0-0** (Carol J. Mitten, Anthony J. Hood, Gregory N. Jeffries, Kevin L. Hildebrand, and John G. Parsons).

In accordance with the provisions of 11 DCMR § 3028.9, this order shall become effective upon publication in the *D.C. Register*; that is, on **OCT 28 2005**.


CAROL J. MITTEN
CHAIRMAN
ZONING COMMISSION


JERRILY R. KRESS, FAIA
DIRECTOR
OFFICE OF ZONING

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The full text of this Zoning Commission order is published in the "Final Rulemaking" section of this edition of the *D.C. Register*.

Government of the District of Columbia

OFFICE OF ZONING



Z.C. CASE NO.: 04-31

As Secretary to the Commission, I hereby certify that on ~~OCT 21 2005~~ copies of this Z.C. Notice of Final Rulemaking & Order No. 04-31 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

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|--|---|
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ATTESTED BY:

Sharon S. Schellin
Acting Secretary to the Zoning Commission
Office of Zoning